

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lianne May	Team: Squad #7	CCRB Case #: 202002635	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/03/2020 8:09 PM, Friday, 04/03/2020 8:12 PM	Location of Incident: § 87(2)(b) 77 Precinct Stationhouse	Precinct: 77	18 Mo. SOL 10/3/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 04/04/2020 11:18 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/10/2020 8:47 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Colin Russell	19390	959956	077 PCT
2. POM Matthew Melendez	18332	955179	077 PCT
3. POM Michael Napolitano	05521	958971	077 PCT
4. An officer			
5. POF Stephanie Perez	26230	964210	077 PCT
6. SGT Michael Sinner	03674	934187	077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Damani Morgan	5167	967615	077 PCT
2. POF Michelle Giglio	18126	954862	077 PCT
3. POM Christophe Messina	01448	961950	077 PCT
4. POM Rochael Vasquez	10909	960049	077 PCT
5. POM Ashley Griffith	19021	958654	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Colin Russell	Force: At § 87(2)(b) in Brooklyn, Police Officer Colin Russell used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Michael Napolitano	Force: At § 87(2)(b) in Brooklyn, Police Officer Michael Napolitano used a chokehold against § 87(2)(b)	§ 87(2)(b)
C.POM Colin Russell	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Colin Russell did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
D.POF Stephanie Perez	Abuse: At the 77 Precinct Stationhouse, Police Officer Stephanie Perez did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
E.POM Matthew Melendez	Abuse: At the 77 Precinct Stationhouse, Police Officer Matthew Melendez did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
F.SGT Michael Sinner	Abuse: At the 77 Precinct Stationhouse, Sergeant Michael Sinner did not obtain medical treatment for § 87(2)(b)	
G.POM Matthew Melendez	Discourtesy: At the 77 Precinct Stationhouse, Police Officer Matthew Melendez spoke discourteously to § 87(2)(b)	
H. An officer	Abuse: At the 77 Precinct Stationhouse, an officer threatened § 87(2)(b) with the use of a taser.	
I. An officer	Discourtesy: At the 77 Precinct Stationhouse, an officer spoke discourteously to § 87(2)(b)	
J. An officer	Force: At the 77 Precinct Stationhouse, an officer used physical force against § 87(2)(b)	
K. An officer	Abuse: At the 77 Precinct Stationhouse, an officer did not obtain medical treatment for § 87(2)(b)	

Case Summary

On April 4, 2020, § 87(2)(b) filed this complaint with the NYPD Internal Affairs Bureau (IAB) (BR1).

§ 87(2)(b) alleged that on April 3, 2020 at approximately 8PM, a Hispanic male civilian randomly accused him of robbery. § 87(2)(b) said that this civilian then chased him back to his apartment building at § 87(2)(b) in Brooklyn and sprayed him with mace before § 87(2)(b) went upstairs to his apartment. § 87(2)(b) denied robbing the victim and ran back downstairs to report the civilian for a false allegation.

At 8:09PM on April 3, 2020, the Hispanic male civilian alerted Police Officer Colin Russell and Police Officer Damani Morgan, both of the 77 Precinct, that he was the victim of a robbery. He provided a description of the robber who fled into § 87(2)(b) PO Russell and PO Morgan radioed for additional units; Police Officer Stephanie Perez, Police Officer Matthew Melendez, Police Officer Michael Napolitano, and Police Officer Michelle Giglio, all of the 77 Precinct, responded.

PO Russell, PO Giglio, PO Morgan, and PO Napolitano went into § 87(2)(b) and saw § 87(2)(b) matching the description of the robber, running toward them. Officers stopped him and he resisted before they placed him in handcuffs and under arrest. In this process, PO Russell used force (**Allegation A: Force**, § 87(2)(g)) and PO Napolitano used a chokehold (**Allegation B: Force**, § 87(2)(g)).

During this arrest and transportation process and at the 77 Precinct stationhouse, § 87(2)(b) told the officers that the Hispanic male civilian sprayed mace at him. He alleged that he requested medical attention from PO Russell, PO Perez, PO Melendez, and the desk sergeant, Sergeant Michael Sinner, of the 77 Precinct (**Allegations C-F: Abuse of authority**, § 87(2)(g)).

§ 87(2)(b) alleged that he told PO Melendez that he would report him for his actions during the incident. PO Melendez replied that he didn't "give a fuck," and to "shut the fuck up" (**Allegation G: Discourtesy**, § 87(2)(g)).

§ 87(2)(b) alleged that officers put him in holding cells when a supervising member-of-service (MOS) threatened him with a taser, told him to shut the fuck up, authorized other officers to put him in leg shackles and handcuffs, and did not provide him with medical attention when requested (**Allegations H-K: Force**, § 87(2)(g)).

The investigation received no stationhouse footage as requested because it was sealed. The investigation received body-worn cameras from PO Russell (BR2), PO Giglio (BR3), PO Perez (BR4), PO Melendez (BR5), PO Napolitano (BR6), PO Morgan (BR7), PO Messina (BR8), PO Vasquez (BR9), and PO Griffith (BR10).

Findings and Recommendations

Allegation A Force: At § 87(2)(b) in Brooklyn, Police Officer Colin Russell used physical force against § 87(2)(b) –

Allegation B Force: At § 87(2)(b) in Brooklyn, Police Officer Michael Napolitano used a chokehold against § 87(2)(b) –

§ 87(2)(b) alleged that on April 3, 2020 at approximately 8PM, a Hispanic male randomly accused him of a previous robbery (BR11). This Hispanic male is henceforth here referred to as "the victim."

§ 87(2)(b) said that the victim chased him back to his residence of § 87(2)(b) in Brooklyn and sprayed him with mace. He then went upstairs to his apartment to wash the mace out of his eyes (BR11).

PO Russell explained that he and PO Morgan were in their marked vehicle at the corner of St Marks Avenue and New York Avenue in Brooklyn when the victim ran up to them, stated he was robbed, and the robber fled into § 87(2)(b). The victim said that they met up from a dating app, but did not know his name, and they physically fought in the victim's car before the robber fled. The victim gave officers a description of the robber's clothing, race, gender, and

Allegation C Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Colin Russell did not obtain medical treatment for § 87(2)(b).

Allegation D Abuse of Authority: At the 77 Precinct Stationhouse, Police Officer Stephanie Perez did not obtain medical treatment for § 87(2)(b).

Allegation E Abuse of Authority: At the 77 Precinct Stationhouse, Police Officer Matthew Melendez did not obtain medical treatment for § 87(2)(b).

Allegation F Abuse of Authority: At the 77 Precinct Stationhouse, Sergeant Michael Sinner did not obtain medical treatment for § 87(2)(b).

§ 87(2)(b) told the investigation (BR11) that the victim chased him from Brower Park after falsely accusing him of robbery back to § 87(2)(b). The male then followed § 87(2)(b) into his apartment building and sprayed him with mace when § 87(2)(b) was already in the elevator. No officers sprayed him with mace. § 87(2)(b) went into his apartment for two to four minutes to wash out the mace. He then wanted to go back downstairs to report the male civilian for falsely accusing him of robbery.

From 1:44-2:12 in PO Morgan's BWC (BR7), § 87(2)(b) states that he did not do anything wrong, contests the arrest, and while placed under arrest, alleges that a civilian sprayed him with mace. He states that he was just upstairs and to ask his grandmother to confirm that. § 87(2)(b) clarified that a civilian had sprayed him with mace before officers arrived (BR11). Another tenant who lived next to the lobby, § 87(2)(b) witnessed officers arrest § 87(2)(b) and explained that she heard § 87(2)(b) say he was sprayed with mace. She spoke to PO Napolitano and smelled mace on his uniform (BR15).

PO Melendez and PO Perez transported § 87(2)(b) back to the 77 Precinct stationhouse in their vehicle (BR16). § 87(2)(b) said that he continued to state that he had been sprayed with mace and explicitly told officers in the stationhouse that he needed to go to the hospital because of this (BR11).

In PO Perez's BWC (BR4) from 5:55-10:15 when they are transporting him to the stationhouse and at 14:50 in the stationhouse, § 87(2)(b) says that he had been sprayed with mace by another civilian and he ran away because he was the real victim. § 87(2)(b) states he did not do anything to anyone after getting sprayed in the face. He states that he never robbed anyone or did anything other than run away from someone who sprayed him. He continues to ask why he was being arrested while accusing the officers of being corrupt. From 12:20-12:30, § 87(2)(b) does not have red eyes, irritated skin, or any color on his clothing. He never displays any symptoms of coughing or difficulty breathing and speaking.

PO Russell (BR12) explained that he heard § 87(2)(b) state that he was sprayed with mace. PO Russell said that he was trained to respond to mace or OC spray in the NYPD Academy. If someone is sprayed, he/she exhibits red puffy eyes, temporary blindness, coughing, wheezing, and it leaves a red and orange color on the person. PO Russell did not seek medical attention for § 87(2)(b) because he did not have any of these symptoms of being sprayed and never heard § 87(2)(b) explicitly ask for any medical attention.

PO Perez (BR4) explained that she heard § 87(2)(b) yell in the back of the vehicle but did not remember if he ever requested medical attention during the entire incident. She did not make any observations that indicated that he needed medical attention.

Sgt. Sinner (BR17) was the desk sergeant when § 87(2)(b) arrived at the stationhouse. Sgt. Sinner did not hear § 87(2)(b) say anything about mace or request medical attention. Sgt. Sinner stamped § 87(2)(b) arrest in the command log and noted his medical condition as normal because he did not observe any distress. § 87(2)(b) was asking repeatedly with what he was being charged and why because he did not commit any crimes.

There is no dispute that § 87(2)(b) told officers that he had been pepper sprayed. However, § 87(2)(b) acknowledged that he had washed his eyes out before interacting with the

officers and the BWC from the responding officers shows that § 87(2)(b) was not obviously suffering from the effects of pepper spray. The BWC also shows that § 87(2)(b) never requested medical attention. Rather, he told the officers about the pepper spray to portray himself as a victim, not a perpetrator of a crime. § 87(2)(g)

Allegation G Discourtesy: At the 77 Precinct Stationhouse, Police Officer Matthew Melendez spoke discourteously to § 87(2)(b).

§ 87(2)(b) said that at the stationhouse, PO Melendez first asked for his identifying information and he refused (BR11). § 87(2)(b) told PO Melendez that he could report him for unspecified behavior during that incident. He said that before officers put him in a cell. PO Melendez told § 87(2)(b) he didn't "give a fuck," if § 87(2)(b) reported him for his behavior and to "shut the fuck up" before providing his name and shield number.

In PO Melendez's BWC (BR5) from 10:55-22:28, PO Melendez is in the stationhouse with § 87(2)(b) and lodges him in a holding cell. The footage corroborates that at first, § 87(2)(b) refuses to provide any of his information and PO Melendez gives his name when § 87(2)(b) requests it before going into the holding cell. However, PO Melendez does not ever use any profanity.

PO Melendez's BWC covers all his interactions with § 87(2)(b). While the BWC corroborates most of § 87(2)(b) testimony, it does not show any allegations of profanity. § 87(2)(g)

Allegation H Abuse of Authority: At the 77 Precinct Stationhouse, an officer threatened § 87(2)(b) with the use of a taser.

Allegation I Discourtesy: At the 77 Precinct Stationhouse, an officer spoke discourteously to § 87(2)(b).

Allegation J Force: At the 77 Precinct Stationhouse, an officer used physical force against § 87(2)(b).

Allegation K Abuse of Authority: At the 77 Precinct Stationhouse, an officer did not obtain medical treatment for § 87(2)(b).

§ 87(2)(b) told the investigation (BR11) that after PO Melendez left § 87(2)(b) in the holding cells, he continually called the other officers in assigned to the cells "crackers," and told them they were racist and liars and told the officers to let him go. He alleged that an officer, who § 87(2)(b) assumed was a supervisor, threatened § 87(2)(b) with a taser by putting it in § 87(2)(b) face if he would not calm down. The supervisor told him to "shut the fuck up." § 87(2)(b) said the supervisor authorized officers to place § 87(2)(b) in leg restraints and refused his request for medical attention. § 87(2)(b) described the supervisor as an "Indian" male who was 56 years-old with a gold star and a black uniform. § 87(2)(b) left the stationhouse and went home without any paperwork related to his arrest.

Sgt. Sinner, the desk officer at the time, said that officers told § 87(2)(b) that he was being charged with robbery, but § 87(2)(b) was still confused as to why he was there. He did not hear anything from other MOS about § 87(2)(b) actions or that any MOS threatened § 87(2)(b) with a taser, uttered profanity, or authorized he be further restrained (BR17).

In PO Melendez's BWC from 17:14-17:42 (BR5), there is a blonde male uniformed officer with no gold star watching PO Melendez put § 87(2)(b) into the holding cell. § 87(2)(b) could not provide a hair color for the supervisor. Sgt. Sinner identified him as retired Police Officer Charles Sciria of the 77 Precinct (BR17).

The investigation received the 77 Precinct roll call twice (BR18; BR19) and both were illegible. The ARCS of the 77 Precinct (BR20) show that PO Sciria was the cell attendant. According to the CCRB MOS roster, PO Sciria retired as of October 1, 2020 and is a 54-year-old

Hispanic male. The other supervisors of the 77 Precinct as of April 3, 2020 are noted in the ARCS (BR20) as Lieutenants Sean Claxton, Eric Delman, and Ronald Cheng and Sergeants Daniel Zollo, Jonathan Cotter, Khalid Bakkal, and Anthony Bertram. These members-of-service are all Black, White, and Asian males. Lt Cheng is Asian but was 37 years old at the time of the incident, which is not close to the age § 87(2)(b) described.

§ 87(2)(b) PO Russell was the arresting officer (BR21). PO Russell arrived back at the stationhouse at 8:26PM and did not hear from any other officers about what occurred with § 87(2)(b) when he got to the stationhouse. When PO Russell was processing him, § 87(2)(b) had calmed down and they were able to talk to him. PO Russell did not see or hear about § 87(2)(b) acting in any way that would cause officers to need to restrain him (BR12).

The NYPD denied the investigation's request for stationhouse footage because it was sealed. Therefore, no video can corroborate § 87(2)(b) allegations. Because PO Sciria is retired, he cannot be interviewed. The officers working at the stationhouse and the BWC did not corroborate any of § 87(2)(b) allegations. Furthermore, § 87(2)(b) description of a 56-year-old Indian male supervisor matches no supervisors listed in the ARCS.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
§ 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
- Sergeant Michael Sinner has been a member of service for 17 years and has been a subject in three CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Colin Russell has been a member of service for five years and has been a subject in four complaints and ten allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Michael Napolitano has been a member of service for five years and has been subject in seven CCRB complaints and 18 allegations, of which three were substantiated (BR25).
 - Case 201903527 involved substantiated allegations of an entry of premises, a seizure of property and a discourtesy against PO Napolitano. The Board recommended Command Discipline A and the NYPD Imposed Command Discipline A.
 - § 87(2)(g)
Case 202003240, which is still open, involves an allegation of a chokehold. In a cell phone video from 00:50-00:56 (BR26), PO Napolitano uses a chokehold by hooking his arm around a civilian's neck.
- Police Officer Stephanie Perez has been a member of service for three years and has been subject in four CCRB complaints and nine allegations, none of which were substantiated. § 87(2)(g)

§ 87(2)(g)

- Police Officer Matthew Melendez has been a member of service for seven years and has been subject in two CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- As of October 27, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR30).

Squad No.: 7

Investigator: Lianne May Investigator Lianne May March 26, 2021
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date